

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-12448

GMAC Mortgage Company

v.

Jeffrey L. Bayko, Sr., et al

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 5/20/05.

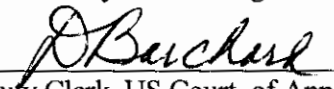
In testimony whereof, I hereunto set my hand and affix the seal of this Court on June 7, 2005.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 6/8/05.


Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-12448-GAO**

GMAC Mortgage Corporation v. Bayko et al Date Filed: 11/18/2004
Assigned to: Judge George A. O'Toole, Jr Jury Demand: None
Cause: 28:2410 Quiet Title Nature of Suit: 890 Other
Statutory Actions
Jurisdiction: U.S. Government
Defendant

Plaintiff**GMAC Mortgage
Corporation**

represented by **David M. Rosen**
Harmon Law Offices, P.C.
150 California Street
Newton, MA 02458
617-558-8411
LEAD ATTORNEY
ATTORNEY TO BE
NOTICED

V.

Defendant**Jeffrey L. Bayko, Sr.****Defendant****Lisa J. Bayko**

represented by **Christine A. Faro**
79 State Street
Newburyport, MA 01950
978-462-4833
LEAD ATTORNEY
ATTORNEY TO BE
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Defendant**Helen E. Bayko**

represented by **Timothy D. Sullivan**
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508-794-0360
Fax: 978-794-5457
Email:
tsullivan@andoverlaw.com
LEAD ATTORNEY
ATTORNEY TO BE
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Defendant**Michael J. Bayko**

represented by **Timothy D. Sullivan**
(See above for address)
LEAD ATTORNEY
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Defendant**BankNorth Group**

represented by **Michele A. Ouimet-Rooke**
Doherty, Wallace, Pillsbury
& Murphy
Suite 1900
1414 Main Street
One Monarch Place
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413-733-3111 X 375
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ATTORNEY TO BE
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Defendant**Hans R. Hailey**

Defendant

Charles R. Rotondi

represented by **Christine A. Faro**
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LEAD ATTORNEY
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Defendant

**Commonwealth of
Massachusetts (Department
of Revenue)**

represented by **Eileen Ryan McAuliffe**
Massachusetts Department of
Revenue
100 Cambridge Street
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mcauliffe@dor.state.ma.us
ATTORNEY TO BE
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Defendant

United States of America

represented by **Barbara Smith Healy**
United States Attorney's
Office
John Joseph Moakley Federal
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Defendant

Gary Evans

Defendant

Christine A. Faro

represented by **Christine A. Faro**
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ATTORNEY TO BE
NOTICED

Defendant

John Aquino

Date Filed	#	Docket Text
11/18/2004	1	NOTICE OF REMOVAL by United States of America from Essex Superior Court, case number 2004-01855-B. \$ 0., receipt number n/a, filed by United States of America. (Attachments: # (1) State court record) (Edge, Eugenia) Additional attachment(s) added on 12/6/2004 (Edge, Eugenia). Additional attachment(s) added on 12/9/2004. Notice of Removal and attachments combined. (Edge, Eugenia). (Entered:

		11/22/2004)
11/18/2004	2	NOTICE of Appearance by Lydia Bottome Turanchik on behalf of United States of America. c/s (Edge, Eugenia) Modified on 12/7/2004 to correct filing date. (Edge, Eugenia). (Entered: 11/22/2004)
11/18/2004	3	ANSWER to Complaint by United States of America.c/s(Edge, Eugenia) (Entered: 11/22/2004)
11/18/2004		If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Edge, Eugenia) (Entered: 11/22/2004)
11/29/2004	7	NOTICE of Appearance by Christine A. Faro on behalf of Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi.c/s (Edge, Eugenia) (Entered: 12/03/2004)
11/29/2004	8	ANSWER to Complaint by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi.c/s(Edge, Eugenia) (Entered: 12/03/2004)
11/29/2004	9	Verified MOTION for Summary Judgment by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi.c/s (Edge, Eugenia) (Entered: 12/03/2004)
11/29/2004	10	MEMORANDUM of Law in Support re 9 MOTION for Summary Judgment filed by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi.c/s (Edge, Eugenia) (Entered: 12/03/2004)
11/29/2004	11	STATEMENT of facts in support re 9 MOTION for Summary Judgment.c/s (Edge, Eugenia) (Entered: 12/07/2004)
11/29/2004	12	EXHIBITS 1 thru 13 not scanned re 9 MOTION for Summary Judgment by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi. (Edge, Eugenia) (Entered: 12/07/2004)
11/29/2004	13	NOTICE of Appearance by Timothy D. Sullivan on

		behalf of Helen E. Bayko, Michael J. Bayko. c/s (Edge, Eugenia) (Entered: 12/07/2004)
11/29/2004	● 14	Verified MOTION for Partial Summary Judgment by Helen E. Bayko, Michael J. Bayko. Exhibits 1 thru 4 not scanned. c/s State Court Pleading See document #'s 25 and 26 for additional information. (Edge, Eugenia) Modified on 12/7/2004 to add text. (Edge, Eugenia). Modified on 12/8/2004 (Smith3, Dianne). (Entered: 12/07/2004)
11/29/2004	●	Notice of correction to docket made by Court staff. Text added to read: State Court pleading. See document #'s 25 and 26 for additional information. (Edge, Eugenia) Modified on 12/8/2004 (Smith3, Dianne). (Entered: 12/07/2004)
11/29/2004	● 15	Verified MOTION for Summary Judgment by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi. (Eugenia Edge) c/s. State Court Pleading. Refer to document #'s 25 and 26 for additional information....Modified on 12/8/2004 (Smith3, Dianne). (Entered: 12/07/2004)
11/29/2004	●	Opposition re 14 MOTION for Summary Judgment filed by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi. **NO IMAGE ATTACHED TO THIS ENTRY** Opposition combined with motion for summary judgment (see entry #15). State Court Pleading. See document #'s 25 and 26 for additional information. (Edge, Eugenia) Modified on 12/8/2004 (Smith3, Dianne). (Entered: 12/07/2004)
11/29/2004	● 16	Verified STATEMENT of facts re 15 MOTION for Summary Judgment and (statement of facts) in support of the opposition combined with 15 motion for summary judgment. State Court Pleading. See document #'s 25 and 26 for additional information. c/s (Edge, Eugenia) Modified on 12/8/2004 (Smith3, Dianne). (Entered: 12/07/2004)

11/29/2004	<u>17</u>	Opposition re <u>15</u> MOTION for Summary Judgment filed by Helen E. Bayko, Michael J. Bayko. Exhibits A thru D not scanned. c/s (Edge, Eugenia) (Entered: 12/08/2004)
11/29/2004	<u>25</u>	Letter/request (non-motion) from Timothy D. Sullivan. (Smith3, Dianne) Additional attachment(s) added on 12/15/2004 (Smith3, Dianne). (Entered: 12/08/2004)
11/29/2004	<u>26</u>	Letter/request (non-motion) from Timothy Sullivan. (Smith3, Dianne) Attachment added on 12/15/2004 (Smith3, Dianne). (Entered: 12/08/2004)
11/30/2004	<u>18</u>	MEMORANDUM in Support re <u>9</u> MOTION for Summary Judgment filed by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi.c/s (Edge, Eugenia) (Entered: 12/08/2004)
11/30/2004		• Opposition re <u>14</u> MOTION for Summary Judgment filed by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi. **No image attached to this entry**. Memorandum of law in support (entry 18) and this opposition combined in same pleading. (Edge, Eugenia) (Entered: 12/08/2004)
12/01/2004	<u>4</u>	MOTION for Summary Judgment by BankNorth Group.c/s(Edge, Eugenia) Additional attachment(s) added on 12/7/2004 (Edge, Eugenia). Additional attachment(s) added on 12/9/2004 (Edge, Eugenia). (Entered: 12/03/2004)
12/01/2004	<u>5</u>	MEMORANDUM in Support re <u>4</u> MOTION for Summary Judgment filed by BankNorth Group.c/s (Edge, Eugenia) (Entered: 12/03/2004)
12/01/2004	<u>6</u>	AFFIDAVIT in Support re <u>4</u> MOTION for Summary Judgment.c/s (Edge, Eugenia) Modified on 12/7/2004 to add text. State Court Pleading. See document #'s 25 and 26 for additional information (Edge, Eugenia). Modified on 12/8/2004 (Smith3, Dianne). (Entered: 12/08/2004)

		12/03/2004)
12/01/2004	•	Notice of correction to docket made by Court staff. Document attached to entry #4 was replaced with correct document. (Edge, Eugenia) (Entered: 12/07/2004)
12/01/2004	• 19	Opposition re <u>15</u> MOTION for Summary Judgment, <u>9</u> MOTION for Summary Judgment filed by BankNorth Group. c/s(Edge, Eugenia) (Entered: 12/08/2004)
12/01/2004	• 20	Opposition re <u>14</u> MOTION for Summary Judgment filed by BankNorth Group.c/s (Edge, Eugenia) Modified on 12/8/2004 to change filing date (Edge, Eugenia). (Entered: 12/08/2004)
12/01/2004	•	Notice of correction to docket made by Court staff. Filing date on document reads: 11/31/04. Correction made to entry 20 to change filing date to read 12/1/04. (Edge, Eugenia) (Entered: 12/08/2004)
12/06/2004	•	Notice of correction to docket made by Court staff. Civil category sheet added to notice of removal. (Edge, Eugenia) (Entered: 12/06/2004)
12/07/2004	•	Notice of correction to docket made by Court staff. Text added to entry #6 to read: "This document was filed in state court" (Edge, Eugenia) (Entered: 12/07/2004)
12/07/2004	• 27	STATE COURT Record. (Attachments: # <u>1</u> Part two of State Court Record# <u>2</u> Part three of State Court Record)(Edge, Eugenia) (Entered: 12/09/2004)
12/08/2004	• 21	First MEMORANDUM in Opposition re <u>4</u> MOTION for Summary Judgment filed by Michael J. Bayko. (Sullivan, Timothy) Additional attachment(s) added on 12/9/2004 . Electronically filed document was not signed. Signed document attached (Edge, Eugenia). (Entered: 12/08/2004)
12/08/2004	• 22	First MEMORANDUM in Opposition re <u>4</u> MOTION

		for Summary Judgment filed by Helen E. Bayko. (Sullivan, Timothy) Additional attachment(s) added on 12/10/2004 signed document attached (Edge, Eugenia). Modified on 12/10/2004 to add text(Edge, Eugenia). (Entered: 12/08/2004)
12/08/2004	<u>23</u>	Opposition re <u>9</u> MOTION for Summary Judgment filed by Michael J. Bayko. (Attachments: # (1) Supplement Response to Memorandum of Law (Docket #10)# (2) Supplement Response to Statement of Facts (Docket #11))(Sullivan, Timothy) Additional attachment(s) added on 12/10/2004 (Edge, Eugenia). (Entered: 12/08/2004)
12/08/2004	<u>24</u>	Opposition re <u>9</u> MOTION for Summary Judgment filed by Helen E. Bayko. (Attachments: # (1) Supplement Response to Memorandum of Law (Docket #10)# (2) Supplement Response to Statement of Facts (Docket #11))(Sullivan, Timothy) Additional attachment(s) added on 12/10/2004 (Edge, Eugenia). (Entered: 12/08/2004)
12/09/2004	•	Notice of correction to docket made by Court staff. DOCUMENTS ATTACHED TO ENTRIES #21 & 22 ARE DUPLICATIVE. BOTH ENTRIES ARE OPPOSITIONS TO BANKNORTH'S MOTION FOR SUMMARY JUDGMENT. (Edge, Eugenia) Modified on 12/14/2004 to correct spelling (Edge, Eugenia). (Entered: 12/10/2004)
12/20/2004	<u>28</u>	MEMORANDUM in Opposition re <u>4</u> MOTION for Summary Judgment, <u>15</u> MOTION for Summary Judgment, <u>14</u> MOTION for Summary Judgment filed by United States of America. (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit)(Bottome Turanchik, Lydia) (Entered: 12/20/2004)
12/21/2004	<u>29</u>	MOTION to Dismiss <i>Entire Case</i> by Commonwealth of Massachusetts (Department of Revenue). (McAuliffe, Eileen) Modified on 12/22/2004 to

		substitute PDF file - attorney originally attached memorandum rather than motion to this entry(Hurley, Virginia). Additional attachment(s) added on 12/23/2004 (Hurley, Virginia). (Entered: 12/21/2004)
12/21/2004	30	MEMORANDUM in Support re 29 MOTION to Dismiss <i>Entire Case</i> filed by Commonwealth of Massachusetts (Department of Revenue). (McAuliffe, Eileen) Additional attachment(s) added on 12/23/2004 (Hurley, Virginia). Modified on 12/23/2004 to add cover page to supporting documents. These documents are filed in the clerk's office. Edge, Eugenia). (Entered: 12/21/2004)
12/21/2004	31	CERTIFICATE OF CONSULTATION re 29 MOTION to Dismiss <i>Entire Case Per Local Rule 7.1 (A) (2)</i> by Eileen Ryan McAuliffe on behalf of Commonwealth of Massachusetts (Department of Revenue). (McAuliffe, Eileen) Additional attachment (s) added on 12/23/2004 (Hurley, Virginia). (Entered: 12/21/2004)
12/22/2004		Electronic notice of correction to docket made by Court staff. Correction: Document #29 substituted at request of attorney McAuliffe. Original PDF file submitted with entry contained memorandum in support, not motion. (Hurley, Virginia) (Entered: 12/22/2004)
12/22/2004	32	REPLY to Response to Motion re 9 MOTION for Summary Judgment filed by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi.c/s (Edge, Eugenia) (Entered: 12/30/2004)
12/22/2004	33	Opposition re 14 MOTION for Summary Judgment filed by Lisa J. Bayko, Christine A. Faro, Charles R. Rotondi.c/s (Edge, Eugenia) (Entered: 12/30/2004)
12/23/2004		Notice of correction to docket made by Court staff. Correction: corrected documents 29,30 and 31

		substituted at request of attorney - original submissions did not contain proper signature. (Hurley, Virginia) (Entered: 12/23/2004)
01/03/2005	<u>34</u>	Assented to MOTION for Extension of Time to February 4, 2005 to File Response/Reply as to <u>29</u> MOTION to Dismiss <i>Entire Case</i> , <u>30</u> Memorandum in Support of Motion, by United States of America. (Bottome Turanchik, Lydia) (Entered: 01/03/2005)
01/04/2005	<u>35</u>	First Opposition re <u>29</u> MOTION to Dismiss <i>Entire Case</i> filed by Helen E. Bayko, Michael J. Bayko. (Attachments: # <u>1</u> Exhibit Exhibit A - Loan Chalk) (Sullivan, Timothy) (Entered: 01/04/2005)
01/05/2005	•	Judge George A. O'Toole Jr.: ElectronicORDER entered granting <u>34</u> Motion for Extension of Time to File Response/Reply re <u>34</u> Assented to MOTION for Extension of Time to February 4, 2005 to File Response/Reply as to <u>29</u> MOTION to Dismiss <i>Entire Case</i> , <u>30</u> Memorandum in Support of Motion, Responses due by 2/4/2005 (Lyness, Paul) (Entered: 01/05/2005)
01/13/2005	<u>36</u>	REPLY to Response to Motion re <u>9</u> MOTION for Summary Judgment filed by Charles R. Rotondi, Christine A. Faro, Lisa J. Bayko.c/s (Edge, Eugenia) (Entered: 01/25/2005)
02/04/2005	<u>37</u>	MOTION for Extension of Time to February 8, 2005 to File Response/Reply as to <u>29</u> MOTION to Dismiss <i>Entire Case</i> by United States of America.(Bottome Turanchik, Lydia) (Entered: 02/04/2005)
02/08/2005	<u>38</u>	MOTION to Deposit Surplus Funds into Court and Withdraw by GMAC Mortgage Corporation.(Abaid, Kim) (Entered: 02/08/2005)
02/08/2005	<u>39</u>	MEMORANDUM in Opposition re <u>29</u> MOTION to Dismiss <i>Entire Case</i> filed by United States of America. (Miller, Gerald) (Entered: 02/08/2005)

02/09/2005	●40	MOTION for Leave to File by Commonwealth of Massachusetts (Department of Revenue).(McAuliffe, Eileen) (Entered: 02/09/2005)
02/10/2005	●41	Opposition re <u>38</u> MOTION to Deposit Funds filed by Helen E. Bayko, Michael J. Bayko. (Sullivan, Timothy) (Entered: 02/10/2005)
02/10/2005	●42	Opposition re <u>38</u> MOTION to Deposit Funds (<i>Limited</i>) filed by United States of America. (Bottome Turanchik, Lydia) (Entered: 02/10/2005)
03/03/2005	●43	REPLY to Response to Motion re <u>40</u> MOTION for Leave to File filed by Commonwealth of Massachusetts (Department of Revenue). (McAuliffe, Eileen) Additional attachment(s) added on 3/4/2005 (Edge, Eugenia). (Entered: 03/03/2005)
03/10/2005	●	NOTICE of Hearing: Status Conference set for 3/16/2005 02:00 PM in Courtroom 9 before Judge George A. O'Toole Jr.. Please mark your calendars accordingly. (Lyness, Paul) (Entered: 03/10/2005)
03/16/2005	●	Electronic Clerk's Notes for proceedings held before Judge George A. O'Toole Jr.: Motion Hearing held on 3/16/2005 re <u>29</u> MOTION to Dismiss <i>Entire Case</i> filed by Commonwealth of Massachusetts (Department of Revenue),. The court reserves its decision.(Court Reporter Shelly Killian.) (Lyness, Paul) (Entered: 03/16/2005)
03/24/2005	●44	Judge George A. O'Toole Jr.: ORDER entered GRANTING <u>29</u> Motion to Dismiss. The action is DISMISSED in its entirety. (Lyness, Paul) (Entered: 03/25/2005)
03/24/2005	●45	Judge George A. O'Toole Jr.: ORDER entered. JUDGMENT in favor of Defendant against Plaintiff (Lyness, Paul) (Entered: 03/25/2005)
03/25/2005	●	Judge George A. O'Toole Jr.: Electronic ORDER

		entered granting nunc pro tunc <u>37</u> Motion for Extension of Time to File Response/Reply re <u>37</u> MOTION for Extension of Time to February 8, 2005 to File Response/Reply as to <u>29</u> MOTION to Dismiss <i>Entire Case</i> , <u>40</u> MOTION for Leave to File, granting nunc pro tunc <u>40</u> Motion for Leave to File (Lyness, Paul) (Entered: 03/25/2005)
05/20/2005	● <u>46</u>	NOTICE OF APPEAL as to <u>44</u> Order on Motion to Dismiss, <u>45</u> Judgment by United States of America. \$ 255 Reason fee is not required: United States' Appeal NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 6/9/2005. (Bottome Turanchik, Lydia) (Entered: 05/20/2005)
06/03/2005	● <u>47</u>	TRANSCRIPT ORDER FORM by United States of America re <u>46</u> Notice of Appeal, (Bottome Turanchik, Lydia) (Entered: 06/03/2005)